



Final Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions	
Virginia Administrative Code (VAC) citation	18VAC85-40-10 et seq.	
Regulation title	Regulations Governing the Practice of Respiratory Care	
Action title	Acceptance of AMA category 1 continuing education	
Document preparation date	9/16/05	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Board is responding to a petition for rule-making from a licensee by amending 18VA85-40-10 et seq., Regulations Governing the Practice of Respiratory Care in order to recognize courses directly related to the practice of respiratory care that are approved by the American Medical Association for Category 1 CME credit.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On September 16, 2005, the Board of Medicine adopted a final amendment to 18VAC85-40-10 et seq., Regulations Governing the Practice of Respiratory Care.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

The Board of Medicine has a specific statutory mandate to promulgate regulations to ensure practitioner competence with requirements such as continuing education.

§ 54.1-2912.1. Continued competency requirements.

- A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.*
- B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.*
- C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.*

In addition, the Board is also authorized by § 54.1-103 to specify additional training for licensees seeking renewal of licenses.

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

- A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.*

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Board of Medicine is responding to a petition for rule-making from a respiratory care practitioner requesting regulations be amended to accept Category 1 CME approved by the

American Medical Association to meet the required hours for renewal of licensure as a respiratory care practitioner. The goal is to expand the approved CE courses available for this profession to include those directed to the practice of respiratory care and offered by another recognized provider.

As the scope of practice for respiratory care practitioners expands beyond its traditional therapies, it is logical to expand the subject matter and availability of courses in continuing education to prepare licensees to assume increasing responsibilities for patient care. Respiratory care practitioners are seeking legislative authority to expand their authority to administer all schedules of medication by any route. In addition, hospital-based respiratory care already involves practice well beyond the traditional inhalation therapy. Respiratory care practitioners may be better prepared to practice in a manner that protects the health and safety of patients if they can use courses offered for continuing medical education for CE credit.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The proposed action is to amend 18VAC85-40-66, Continuing education requirements, to accept courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit to meet the 20-hour per biennium CE requirement for renewal of a license as a respiratory care practitioner.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

Advantages and disadvantages to the public:

There are no disadvantages to the public. The public may be better served by allowing greater opportunity for continuing education, improving flexibility for practitioners in obtaining courses pertinent to their practice and expanding the knowledge basis and resources available through the American Medical Association.

Advantages and disadvantages to the agency or the Commonwealth:

There are no advantages or disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board and does not involve additional cost or staff time.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no changes to the text of the proposed regulation since its publication.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on May 20, 2005 with a 60-day comment period that closed on July 29, 2005. A public hearing was conducted on July 14, 2005. There were no written or oral comments received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
66	n/a	The current regulation requires a respiratory care practitioner to complete 20 hours of continuing education as approved and documented by a sponsor recognized by the AARC	The amended regulation would also recognize courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.

